## Basic information

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|---|---|
| **2018/0433(COD)**<br>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation | Procedure completed |
| Ensuring basic air connectivity with regard to the withdrawal of the United Kingdom from the Union<br>Amended by 2019/0179(COD)<br>**Subject**<br>3.20.15 Transport agreements and cooperation<br>**Geographical area**<br>United Kingdom | |

## Key players

### European Parliament

| Committee responsible | Rapporteur | Appointed |
|---|---|---|
| TRAN Transport and Tourism | TELIČKA Pavel (ALDE) | 10/01/2019 |
| | Shadow rapporteur<br>DE GRANDES PASCUAL Luis (PPE)<br>AYALA SENDER Inés (S&D)<br>DALUNDE Jakop G. (Verts/ALE)<br>PAKSAS Rolandas (EFDD) | |

### Council of the European Union

| Council configuration | Meetings | Date |
|---|---|---|
| General Affairs | 3682 | 2019-03-19 |

### European Commission

| Commission DG | Commissioner |
|---|---|
| Mobility and Transport | BULC Violeta |

European Economic and Social Committee

European Committee of the Regions

## Key events

| Date | Event | Reference | Summary |
|---|---|---|---|

| | | | |
|---|---|---|---|
| 19/12/2018 | Legislative proposal published | COM(2018)0893 | Summary |
| 14/01/2019 | Committee referral announced in Parliament, 1st reading | | |
| 22/01/2019 | Vote in committee, 1st reading | | |
| 04/02/2019 | Committee report tabled for plenary, 1st reading | A8-0062/2019 | Summary |
| 13/02/2019 | Decision by Parliament, 1st reading | T8-0106/2019 | Summary |
| 13/02/2019 | Results of vote in Parliament | | |
| 13/02/2019 | Matter referred back to the committee responsible for interinstitutional negotiations | | |
| 04/03/2019 | Approval in committee of the text agreed at 1st reading interinstitutional negotiations | GEDA/A/(2019)004621<br>PE638.712 | |
| 13/03/2019 | Decision by Parliament, 1st reading | T8-0182/2019 | Summary |
| 13/03/2019 | Results of vote in Parliament | | |
| 19/03/2019 | Act adopted by Council after Parliament's 1st reading | | |
| 25/03/2019 | Final act signed | | |
| 27/03/2019 | End of procedure in Parliament | | |
| 27/03/2019 | Final act published in Official Journal | | |

## Technical information

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| **Procedure reference** | 2018/0433(COD) |
| **Procedure type** | COD - Ordinary legislative procedure (ex-codecision procedure) |
| **Procedure subtype** | Legislation |
| **Legislative instrument** | Regulation |
| **Amendments and repeals** | Amended by 2019/0179(COD) |
| **Legal basis** | Rules of Procedure EP 61<br>Treaty on the Functioning of the European Union TFEU 100-p2 |
| **Other legal basis** | Rules of Procedure EP 165 |
| **Mandatory consultation of other institutions** | European Economic and Social Committee<br>European Committee of the Regions |
| **Stage reached in procedure** | Procedure completed |
| **Committee dossier** | TRAN/8/15269 |

## Documentation gateway

**European Parliament**

| Document type | Committee | Reference | Date | Summary |
|---|---|---|---|---|
| Committee report tabled for plenary, 1st reading/single reading | | A8-0062/2019 | 04/02/2019 | Summary |
| Text adopted by Parliament, partial vote at 1st reading /single reading | | T8-0106/2019 | 13/02/2019 | Summary |

| | | | | |
|---|---|---|---|---|
| Text agreed during interinstitutional negotiations | | PE638.712 | 27/02/2019 | |
| Text adopted by Parliament, 1st reading/single reading | | T8-0182/2019 | 13/03/2019 | Summary |

**Council of the EU**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Coreper letter confirming interinstitutional agreement | GEDA/A/(2019)004621 | 27/02/2019 | |
| Draft final act | 00068/2019/LEX | 25/03/2019 | |

**European Commission**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Legislative proposal | COM(2018)0893 | 19/12/2018 | Summary |
| Commission response to text adopted in plenary | SP(2019)393 | 30/04/2019 | |

**Other institutions and bodies**

| Institution/body | Document type | Reference | Date | Summary |
|---|---|---|---|---|
| EESC | Economic and Social Committee: opinion, report | CES0444/2019 | 20/02/2019 | |

**Additional information**

| Source | Document | Date |
|---|---|---|
| European Commission | EUR-Lex | |

**Final act**

Regulation 2019/0502
OJ L 085I 27.03.2019, p. 0049 Summary

# Ensuring basic air connectivity with regard to the withdrawal of the United Kingdom from the Union

2018/0433(COD) - 27/03/2019 - Final act

PURPOSE: to ensure basic air transport connectivity in order to avoid a total interruption of air traffic between the EU and the United Kingdom in the event of Brexit without agreement.

LEGISLATIVE ACT: Regulation (EU) 2019/502 of the European Parliament and of the Council on common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union.

CONTENT: the purpose of this Regulation is to establish interim measures to govern air transport between the Union and the United Kingdom after the United Kingdom has withdrawn from the EU, in the absence of a withdrawal agreement.

The measures would allow carriers licensed by the United Kingdom to provide air transport services between the United Kingdom and the remaining 27 Member States. The rights thus granted would be subject to the United Kingdom granting equivalent rights to air carriers licensed by the Union and would be subject to certain conditions ensuring fair competition.

*Traffic rights*

Air carriers from the United Kingdom could, under the conditions set out in the regulation:

- fly over the territory of the Union without landing there;

- make stopovers in the territory of the Union for non-commercial purposes within the meaning of the Chicago Convention;

- operate scheduled and non-scheduled international air transport services for passengers, combined passenger and freight services and freight services only, between two points, one of which is located in the United Kingdom and the other in the territory of the Union;

- for a maximum period of 5 months from the first day of application of the regulation to operate scheduled and non-scheduled international air transport services for freight services only, between two points, one of which is located in the territory of the Union and the other in the territory of a third country, in the context of services whose point of origin or destination is located in the United Kingdom;

- continue to operate scheduled flights in accordance with public service obligations until 28 October 2019, the aim being to ensure the continuity of public services while the national authorities make the necessary adjustments to the new situation.

*Ownership and control requirements*

Where an air carrier holding an operating licence issued by a Member State other than the United Kingdom ceases to comply with the requirements (‘ownership and control requirements’) due to the withdrawal of the United Kingdom from the Union, it shall have until 28 October 2019 to comply fully with all such requirements.

Within two weeks of the entry into force of the Regulation, the air carrier shall present a plan for remedial action to the competent licensing authority containing the measures provided for to ensure that the ownership and control requirements are fully respected no later than six months from the date of application of the Regulation.

*Equivalence of rights*

Where the Commission determines that the rights granted by the United Kingdom to Union air carriers are not, de jure or de facto, equivalent to those granted to UK air carriers under this Regulation, or that those rights are not equally available to all Union carriers, the Commission shall, without delay and in order to restore equivalence, adopt implementing acts to:

- establish limits to the allowable capacity for scheduled air transport services available to UK air carriers and require the Member States to adapt the operating authorisations of UK air carriers, both existing and newly granted, accordingly;

- require the Member States to refuse, suspend or revoke the said operating authorisations; or

- impose financial duties or operational restrictions.

*Operating authorisation*

Without prejudice to Union law and national aviation safety law, UK air carriers shall be required to obtain an operating authorisation from each Member State in which they wish to operate. At least 30 days before the start of operations, they must submit their operational plans, programmes and air service schedules to the competent authorities of each Member State concerned for approval.

Member States may refuse, withdraw, suspend, limit or impose conditions on the operating authorisation of a United Kingdom air carrier if, for example, the applicable safety and security requirements are not met.

ENTRY INTO FORCE: 28.3.2019. The Regulation shall apply from the day following that on which Union law ceases to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

The Regulation shall apply until an air transport agreement with the United Kingdom enters into force or until 30 March 2020, whichever is the earlier.

# Ensuring basic air connectivity with regard to the withdrawal of the United Kingdom from the Union

2018/0433(COD) - 19/12/2018 - Legislative proposal

PURPOSE: to avoid a total interruption of air traffic between the EU and the United Kingdom in the absence of an agreement to withdraw the United Kingdom from the Union.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with the Council.

BACKGROUND: on 13 December 2018, the European Council (Article 50) renewed its call to intensify work on preparing, at all levels, for the consequences of the United Kingdom's withdrawal from the Union, taking into account all possible outcomes.

In response to this call, this Regulation is part of a package of emergency measures proposed by the Commission in view of the uncertainty in the United Kingdom regarding the ratification of the withdrawal agreement.

Regulation (EC) No 1008/2008 of the European Parliament and of the Council sets out the conditions for the granting of the Union operating licence to air carriers and establishes the freedom to provide intra-EU air services. In the absence of any provisions to the contrary in a withdrawal agreement, air services between the United Kingdom and the Member States would cease to be governed by the said Regulation upon withdrawal.

Moreover, certain air carriers, by reason of their holding an operating licence issued by the United Kingdom, or their principal place of business being located in the United Kingdom, or their being majority owned or effectively controlled by the United Kingdom or its nationals, would cease to meet the conditions laid down in the said Regulation to qualify as Union carriers. The carriers in any of the situations described above would lose their Union operating licence and, as a consequence, no longer enjoy the right to provide intra-Union air services.

Direct air transport services between the United Kingdom and the Member States are almost entirely in the hands of United Kingdom and Union air carriers. The loss by those air carriers of their right to provide air services between the United Kingdom and the Member States would therefore result in serious disruption. Most, if not all, air routes between the Union and the United Kingdom would cease to be served.

In a no-deal scenario, it is expected that the consequences for the respective economies would be severe. The Commission considers it necessary to establish a temporary set of measures enabling carriers licensed in the United Kingdom to provide air transport services between the territory of the latter and the remaining 27 Member States.

CONTENT: the present proposal thus has the objective to lay down **provisional measures** to govern air transport between the Union and the United Kingdom following the latter's withdrawal from the Union. This proposal complements Union Regulation (EC) No 1008/2008. Although the approach followed in the Union's air transport agreements with third countries has been respected in some areas (e.g. operating authorisations), the specific purpose and context of this Regulation, as well as its unilateral nature, necessarily require a more restrictive approach in the grant of rights, as well as specific provisions intended to preserve equality of rights and a level playing field.

***Maintain basic connectivity***

The proposed Regulation provides for the unilateral grant of first, second, third and fourth freedom traffic rights to United Kingdom air carriers so that these can continue to overfly and make technical stops in Union's territory, as well as serve direct routes between the respective territories. No distinction is made between passenger and cargo operations, or scheduled and non-scheduled services.

These measures are intended to maintain basic connectivity for a short transition period ending **30 March, 2020**.

***Reciprocity and fair competition***

The measures would enter into force subject to the United Kingdom granting equivalent rights to EU air carriers and ensuring fair competition. Otherwise, the Commission would be empowered to adopt the necessary measures to correct the situation by means of implementing acts, including the limitation or withdrawal of operating authorisations of United Kingdom air carriers.

A level playing field requires that, even after the withdrawal, the United Kingdom continues to apply sufficiently high standards in the area of air transport as regards: (i) fair competition; (ii) the prohibition of unjustified government subsidies; (iii) the protection of workers; (iv) the protection of the environment; (v) safety and security; (vi) non-discrimination of EU carriers in the United Kingdom.

# Ensuring basic air connectivity with regard to the withdrawal of the United Kingdom from the Union

2018/0433(COD) - 13/02/2019 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 57 votes to 4, with 28 abstentions, amendments on the proposal for a regulation of the European Parliament and of the Council on common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union.

The matter was referred to the relevant committees for inter-institutional negotiations.

The purpose of the proposal is to establish interim measures to govern air transport between the Union and the United Kingdom after the United Kingdom withdraws from the Union, in the absence of an agreement. The proposed act would complement Regulation (EC) No 1008/2008 of the European Parliament and of the Council so that basic connectivity is ensured, despite the fact that the regulation will no longer apply to the transport operations in question.

The main amendments adopted in plenary related to the following:

*Temporary exemption from ownership requirement*

The Commission could grant a temporary exemption from the ownership obligation provided for in Article 4(f) of Regulation (EC) No 1008/2008 at the request of an air carrier, provided that it fulfils a series of conditions:

- it holds a valid operating licence within the meaning of Regulation (EC) No 1008/2008 on the day before the first day of application of this regulation;

- the United Kingdom or United Kingdom nationals, or a combination of both, own less than 50% of the company;

- the Member States of the Union or nationals of the Member States of the Union, or a combination of both, effectively control the company;

- the presentation of credible plans to change its ownership structure as soon as possible.

The exemption could be granted for a period not exceeding March 30, 2020 and would not be renewable.

*Rights to perform transport services*

UK air carriers may perform scheduled and non-scheduled international air transport services, ***including code-sharing,*** for passengers, combination of passengers and cargo and all-cargo services between any pair of points of which one is situated in the territory of the United Kingdom and the other one is situated in the territory of the Union

In order to maintain mutually beneficial levels of connectivity, Members believe that commercial cooperation agreements, such as code-sharing, should be foreseen for both British and EU-27 air carriers, in accordance with the principle of reciprocity.

*Reciprocity and fair competition*

The Commission should be able to adopt delegated acts (rather than implementing acts) in respect of restoring equivalence or remedying situations of unfair competition by appropriate measures.

In this context, it could propose a capacity cap on routes between the United Kingdom and each Member State or measures to remedy the United Kingdom's application of standards for the protection of passenger rights, workers' rights, safety, security or environmental protection that are less stringent than those provided for by Union law.

At the latest on the date of entry into force of the regulation, the Commission should be mandated to open negotiations with the United Kingdom on a comprehensive air transport agreement.

# Ensuring basic air connectivity with regard to the withdrawal of the United Kingdom from the Union

2018/0433(COD) - 13/03/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 653 votes to 21 with 5 abstentions a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union.

The position of the European Parliament adopted at first reading under the ordinary legislative procedure has amended the Commission proposal as follows:

*Objective*

The purpose of the proposal is to establish interim measures to govern air transport between the Union and the United Kingdom after the United Kingdom has withdrawn from the EU, in the absence of a withdrawal agreement.

The measures would allow carriers licensed by the United Kingdom to provide air transport services between the United Kingdom and the remaining 27 Member States. The rights thus granted would be subject to the United Kingdom granting equivalent rights to air carriers licensed by the Union and would be subject to certain conditions ensuring fair competition.

*Traffic rights*

Air carriers from the United Kingdom could, under the conditions set out in the regulation:

- fly over the territory of the Union without landing there;

- make stopovers in the territory of the Union for non-commercial purposes within the meaning of the Chicago Convention;

- operate scheduled and non-scheduled international air transport services for passengers, combined passenger and freight services and freight services only, between two points, one of which is located in the United Kingdom and the other in the territory of the Union;

- for a maximum period of 5 months from the first day of application of the regulation to operate scheduled and non-scheduled international air transport services for freight services only, between two points, one of which is located in the territory of the Union and the other in the territory of a third country, in the context of services whose point of origin or destination is located in the United Kingdom;

- for a maximum period of 7 months from the first day of application of the regulation, continue to provide scheduled air services on routes subject to public service obligations where the operating right was granted in accordance with Regulation (EC) No 1008/2008 before the date of application of the regulation and subject to compliance with the conditions applicable to such services under Regulation (EC) No 1008/2008.

The amended regulations also provide for:

- the possibility of providing air transport services covered by the regulation through commercial cooperation agreements, such as capacity reservation or code-sharing agreements, under certain conditions;

- the possibility for a United Kingdom air carrier to provide air transport services (i) by using an aircraft leased without crew from any lessor; (ii) by using an aircraft leased with crew from another United Kingdom air carrier; (iii) by using an aircraft leased with crew from an air carrier of a country other than the United Kingdom, provided that the lease is justified by exceptional needs and that the lease period does not exceed what is strictly necessary to meet those needs;

- emergency measures as regards the treatment of operating licences in the light of ownership and control requirements, by way of derogation from Article 8 of Regulation (EC) No 1008/2008.

*Reciprocity and fair competition*

If the Commission considers that the rights granted by the United Kingdom to Union air carriers are not equivalent to those granted to United Kingdom air carriers, it would adopt without delay, in order to restore equivalence, implementing acts to:

- set limits on the authorised capacity of scheduled air transport services made available to United Kingdom air carriers and to require Member States to adapt the operating authorisations of existing and newly granted United Kingdom air carriers accordingly;

- require Member States to refuse, suspend or revoke such operating authorisations; or

- impose financial obligations or operating restrictions.

The regulation would apply from the day following the day on which EU law ceases to apply in the United Kingdom.

# Ensuring basic air connectivity with regard to the withdrawal of the United Kingdom from the Union

2018/0433(COD) - 04/02/2019 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Transport and Tourism adopted Pavel's report TELIČKA (ALDE, CZ) on the proposal for a regulation of the European Parliament and of the Council on common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union.

The purpose of the proposal is to establish interim measures to govern air transport between the Union and the United Kingdom after the United Kingdom withdraws from the Union, in the absence of an agreement. The proposed act would complement Regulation (EC) No 1008/2008 of the European Parliament and of the Council so that basic connectivity is ensured, despite the fact that the regulation will no longer apply to the transport operations in question.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows:

*Temporary exemption from ownership requirement*

The Commission could grant a temporary exemption from the ownership obligation provided for in Article 4(f) of Regulation (EC) No 1008/2008 at the request of an air carrier, provided that it fulfils a series of conditions. The exemption could be granted for a period not exceeding March 30, 2020 and would not be renewable.

*Rights to perform transport services*

UK air carriers may perform scheduled and non-scheduled international air transport services, ***including code-sharing,*** for passengers, combination of passengers and cargo and all-cargo services between any pair of points of which one is situated in the territory of the United Kingdom and the other one is situated in the territory of the Union

In order to maintain mutually beneficial levels of connectivity, Members believe that commercial cooperation agreements, such as code-sharing, should be foreseen for both British and EU-27 air carriers, in accordance with the principle of reciprocity.

*Reciprocity and fair competition*

The Commission should be able to adopt delegated acts (rather than implementing acts) in respect of restoring equivalence or remedying situations of unfair competition by appropriate measures.